

DEPARTMENT OF FOOD AND AGRICULTURE  
PROPOSED AMENDMENT OF THE REGULATIONS

Title 3, California Code of Regulations

Section 3906

INITIAL STATEMENT OF REASONS

Description of the Public Problem, Administrative Requirement, or Other Condition or Circumstance the Regulations are Intended to Address

This regulation is intended to address the obligation of the Secretary of Food and Agriculture to set an annual assessment rate on the gross annual dollar volume sales of agricultural and/or vegetable seed.

Specific Purpose and Factual Basis

The specific purpose of Section 3906 is to establish the annual assessment rate per one-hundred dollars gross annual dollar volume sales of agricultural and/or vegetable seed for the preceding fiscal year, beginning July 1. This assessment supports the activities of the Seed Services Program, which administers seed law enforcement throughout California. Staff of the Seed Services Program assist county agricultural commissioners in all seed-related enforcement activities and evaluate compliance at the local and statewide level. CDFA associate agricultural biologists conduct seed sampling and coordinate enforcement activities of assigned counties, as well as investigate seed complaints. The Seed Services Program interacts with agricultural departments in other states, the United States Department of Agriculture, industry representatives, and the California Crop Improvement Association, which is the authorized seed certifying agency for California. CDFA agricultural biologists stationed throughout the State perform compliance monitoring through the annual collection of over 600 seed samples.

Food and Agricultural Code (FAC), Sections 52291-52298 provides for an eleven member Seed Advisory Board (Board) and establishes the composition, terms of office and duties of the Board. One of the duties is to recommend the dollar volume assessments on gross annual dollar volume sales of agricultural and/or vegetable seed. FAC, Section

552354 establishes that the assessment shall not exceed \$0.40/\$100 gross annual dollar volume sales of agricultural and/or vegetable seed.

FAC, Section 52354.5 establishes that the Board shall make a recommendation regarding the level of assessment to the director and that the director (secretary) shall fix the annual assessment. During their May 12, 2010 meeting, the Board approved a motion to set the assessment rate at \$0.28/\$100 gross annual dollar volume sales of agricultural and/or vegetable seed for the fiscal year beginning July 1, 2010. Based on budget projections, this is the amount that the Board determined would be sufficient to support program activities.

#### TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS.

The Department relied on the recommendation of the Seed Advisory Board in proposing the amendment to this regulation.

#### REASONABLE ALTERNATIVES TO THE REGULATION AND THE AGENCY'S REASONS FOR REJECTING THOSE ALTERNATIVES.

No other alternatives were presented to or considered by the Department.

#### REASONABLE ALTERNATIVES TO THE PROPOSED REGULATORY ACTION THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS.

The Department has not identified any alternatives that would lessen any adverse impact on small businesses.

#### EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS.

There are 293 small firms that submit an average assessment payment of approximately \$4,100 per year. The proposed change in the assessment will change their payments by about \$944 each. There are 62 large firms having average sales of approximately \$5.8

million per year that pay about  $\frac{3}{4}$  of the total assessments. The proposed change in the assessment will change their payments by approximately \$16,000 each (about 0.3% of the firms' sales volume).

Information Relied Upon

The Department is relying upon the following document in proposed the amendment of Section 3906.

Memorandum from John Heaton to Susan McCarthy, dated June 29, 2010

Minutes, dated May 12, 2010, Seed Advisory Board.